

52. (Twice Amended) An apparatus comprising:

(a) a baby bottle, said baby bottle comprising a nipple and a cover for said nipple, said nipple comprising a top with an orifice in said top, said cover including a sealing element therein for sealing said orifice at said top of said baby bottle nipple;

(b) said baby bottle further comprising a cap and a handle, wherein said cap screws onto said baby bottle, and wherein said cap contains a recess therein for receiving a portion of said handle in a mating relationship;

(c) said baby bottle further comprising a skirt, said skirt comprising a protective element for placement on the bottom of said baby bottle to protect against shocks to the bottom of said baby bottle.

#### Response

Receipt is acknowledged of the Office Action dated June 13, 2002 in the above-captioned matter. Applicant is hereby filing a Request for Continued Examination (RCE), and a two month extension of the time provided for response and reconsideration of the application are respectfully requested. A check for \$570 in payment of the small entity fees for the RCE and the extension is enclosed. The Commissioner is hereby authorized to debit any additional fees that may be required from Deposit Account No. 50-1604, and is further authorized to credit any overpayments thereto.

In the Office Action, the Examiner rejected the application under §102(e) based on the Held reference (U.S. Patent No. 5,150,801) on the grounds that Held discloses the subject matter of the present inventions in Figures 12 and 13. Reconsideration of the rejection is requested.

Figures 12 and 13 are discussed in the Held reference at Column 3 line 63 through Column 4 line 19. As discussed therein, Held discloses a cover cap 42 having a base body 50. The cap 42 has a

cup-shaped attachment 54 which is detachably connected to the base body 50. Thus, Held discloses a cover having two parts, a lower part 50 and a cup-shaped attachment part 54. The cup-shaped attachment is merely a detachable cover which fits into the base 50. Upon review of Figures 12 and 13, Applicant has not been able to find any sealing element which seals the hole at the top of a nipple. Cup shaped attachment 54 appears to merely be a cover – no disclosure of any form appears to be provided in the drawings cited showing this to be a part which is specifically used to seal the nipple. Likewise, upon review of the text associated with Figures 12-13, Applicant has also not been able to find any such discussion of a sealing element either.

Thus, there does not appear to be any disclosure within the Held reference of a sealing element in the cover for sealing a nipple. As a result, is it requested that the rejection over Held be withdrawn or that a specific reference be provided to the exact structure(s) in the figures and to the corresponding text in the disclosure which Examiner believes discloses a sealing element. In the absence of any disclosure of such a sealing element, it is requested that the rejection be withdrawn.

In the Office Action, the Examiner also rejected the application under 35 U.S.C. §102(a) based on the Shefflin reference (U.S. Patent No. 5,878,898). Under Section 102(a), the Shefflin reference is only available as a reference as of the date it is made available to the public. See, MPEP §2126 (8<sup>th</sup> Ed., p. 2100-62). However, the Shefflin reference was not made available to the public until the date it issued as a patent, i.e. March 9, 1999. Prior to that, Shefflin was a pending application, and as such it was not made available to the public – it was maintained in secrecy. (Patent applications filed prior to November 29, 2000 were maintained in secrecy and were not published.)

Thus, the effective date of the Shefflin reference under §102(a) is March 9, 1999. However, the declaration previously submitted in this application establishes a date of invention prior to February

16, 1996, which is of course before the March 9, 1999 effective date of the Shefflin reference under §102(a). Accordingly, it is requested that the 102(a) rejection be withdrawn.

Likewise, even were a rejection to issued under 102(e), it must be noted that Shefflin is not a mere continuation application – it is a continuation-in-part (CIP) of an application which is a continuation-in-part of yet another application. In response to the declaration previously submitted, no showing has been made by the Examiner which would entitle the reference to be accorded a filing date earlier than its filing date of February 16, 1996. To carry back a 102(e) date to the filing date of a parent application, the parent application must: (A) have a right of priority to the earlier date under 35 U.S.C. §120; and must also (B) support the invention claimed as required by 35 U.S.C. §112 first paragraph. *See*, MPEP §2136.03 IV (8<sup>th</sup> Ed., pgs. 2100-93 to 2100-94). This is particularly important in the case of a continuation-in-part application. In this case, Shefflin is a continuation-in-part application of another continuation-in-part, and no showing has been made or asserted that any of the parent applications to Shefflin fulfill element (B), which would be required for a further rejection under 102(e). Unless such assertion can be provided, with evidence of the same, it is respectfully requested that all rejections based on Shefflin be withdrawn.

With respect to pending Claim 51, the Examiner rejected the claims under §103(a) based on Signorini (U.S. Patent No. 5,038,948) and Shefflin. Upon review of the subject matter of Claim 51, Applicant has found that neither Signorini nor Shefflin teach or suggest the subject matter of the prior claim, and reserves the right to pursue additional claims to the subject matter of Claim 51 in a continuation application. However, to facilitate an allowance of the present application without delay, Claims 51 and 52 have been amended as set forth above.

Claims 51 and 52 recite a cap which screws onto a baby bottle, the cap having a recess therein,

the recess being provided to receive a portion of the handle in a mating relationship. Signorini does not teach or suggest a cap with a recess therein, the recess being provided to receive a portion of the handle in a mating relationship.

Signorini also does not teach or suggest a cap which screws onto a baby bottle. Signorini specifically teaches a cap which does not screw onto a baby bottle. In Signorini, the cap screws onto another cap (a counter-cap) and the counter-cap is slipped onto the baby bottle from the bottle. Neither the cap nor the screw cap can screw onto the baby bottle of Signorini, since the Signorini bottle has no internal or external threads, and is specifically intended not to have any such threads. Rather, the Signorini bottle is tapered from a top edge to the bottom, like an ordinary drinking glass. *See*, Column 1 lines 30-35, and Column 2 lines 63-64.

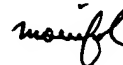
In contrast, the present invention is a baby bottle with screw threads, a cap which screws onto that baby bottle, and a handle which locks into a recess in that cap. None of the references teach a cap which: (a) screws onto a baby bottle and (b) has a recess therein for receiving a handle in a mating relationship. Accordingly, it is requested that the rejection of pending claims 51 and 52 be withdrawn.

Likewise, none of the references teach or suggest these inventions with the features discussed above, and with the additional feature of the protective skirt claimed in amended claim 52.

In view of the above, it is believed that all of the claims of the application are fully allowable. Favorable action on the application is respectfully requested and believed fully warranted.

Dated: November 13, 2002

Respectfully submitted,



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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Application of: Hakim

Patent Application

Serial No.: 09/656,289

Art Unit: 3727

Examiner: Tri Mai

Filing Date: Sept. 6, 2000

For: Baby Bottles with  
Sealing Icons

Attorney Docket No.: 4009.016

Commissioner for Patents  
Washington, D.C. 20231

RECEIVED  
NOV 22 2002  
TECHNOLOGY CENTER R3700

Marked-Up Amended Claims

For the Examiner's reference and pursuant to 37 C.F.R. 1.121, a marked-up version of the amended claims is provided as follows:

51. (Twice Amended) An apparatus comprising:

- (a) a baby bottle, said baby bottle comprising a nipple and a cover for said nipple, said nipple comprising a top with an orifice in said top, said cover including a sealing element therein for sealing said orifice at said top of said baby bottle nipple;
- (b) said baby bottle further comprising a cap and a handle, wherein said cap screws onto said baby bottle, and wherein said cap contains a recess therein for receiving a portion of said handle in a mating relationship.

52. (Twice Amended) An apparatus comprising:

(a) a baby bottle, said baby bottle comprising a nipple and a cover for said nipple, said nipple comprising a top with an orifice in said top, said cover including a sealing element therein for sealing said orifice at said top of said baby bottle nipple;

(b) said baby bottle further comprising a cap and a handle, wherein said cap screws onto said baby bottle, and wherein said cap contains a recess therein for receiving a portion of said handle in a mating relationship;

(c) said baby bottle further comprising a skirt, said skirt comprising a protective element for placement on the bottom of said baby bottle to protect against shocks to the bottom of said baby bottle.

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